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DEPARTMENT OF DEFENSE
COMBINED FORCES SPECIAL OPERATIONS COMPONENT COMMAND
AFGHANISTAN
NEW KABUL COMPOUND
APO AE 09356

CFSOCC-A-CG 10 December 2010

MEMORANDUM FOR (b)(3), (b)(6) CJSOTF-A, Camp Vance, Afghanistan, APO AE 09354

SUBJECT: Appointment Order - Investigating Officer Pursuant to Army Regulation (AR) 15-6, *Procedures for Investigation Officers and Boards of Officers*, 2 October 2006

1. REFERENCES:

a. AR 15-6, (*Procedures for Investigating Officers and Boards of Officers*), 2 October 2006;

b. Uniform Code of Military Justice, 2008.

(S) 2. I hereby appoint you as an investigating officer pursuant to AR 15-6 to investigate the facts and circumstances surrounding allegations that USSF were responsible for civilian casualty and/or law of war allegations during (b)(1)1.4a at or near Shah Wali Kot from on or about 25 November 2010 to on or about 29 November 2010. This investigation is your primary mission until I determine that the investigation is complete. Submit your report to me, through CFSOCC-A SJA, NLT 10 days from the date you receive this memo. Submit any request for delay or modification of the scope of your investigation to that office.

3. The scope of your investigation is as broad as necessary. However, you will, at a minimum, ascertain the facts and circumstances surrounding these allegations. Ensure your report includes specific findings based upon the facts you discover and recommendations that are supported by and reasonably related to those facts.

4. Conduct your investigation IAW AR 15-6. Use DA Form 2823 and swear in all witness prior to interviewing them. Contact (b)(3), (b)(6) your legal advisor for this investigation, at SVOIP (b)(6) or (b)(3), (b)(6) before you begin the investigation. If you discover credible evidence to support these allegations, stop immediately and consult your legal advisor.

5. You have Priority 1 travel status throughout the AOR in order to conduct the investigation.

AUSTIN S. MILLER
Brigadier General, U.S. Army
Commanding General

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DEPARTMENT OF DEFENSE
COMBINED FORCES SPECIAL OPERATIONS COMPONENT COMMAND
AFGHANISTAN
NEW KABUL COMPOUND
APO AE 09356

CFSOCC-A-CG

1 January 2011

MEMORANDUM FOR RECORD

SUBJECT: Action Memo - AR 15-6 Investigation Concerning Shah Wali Kot Allegations of Civilian Casualties and Law of War Violations

1. I have reviewed the AR 15-6 investigation into the facts and circumstances surrounding the allegations of civilian casualties and law of war violations at the end of November 2010 in the Shah Wali Kot area. I approve the investigating officer's findings.

2. I also approve the investigating officer's recommendations and forward them to SOTF-S CDR for his consideration.

AUSTIN S. MILLER
Brigadier General, US Army
Commanding General

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DEPARTMENT OF DEFENSE
COMBINED JOINT SPECIAL OPERATIONS TASK FORCE - AFGHANISTAN
APO, AE 09354

CJSOTF-A 17 December 2010

MEMORANDUM THRU SJA, Combined Forces Special Operations Component Command – Afghanistan, Kabul, Afghanistan, APO AE 09356

FOR Commander, Combined Forces Special Operations Component Command - Afghanistan, Kabul, Afghanistan, APO AE 09356

SUBJECT: (b)(1)1.4a CIVCAS and Law of War violation allegations

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1. On 10 December 2010, I was appointed to conduct an AR 15-6 inquiry into allegations that USSOF were responsible for civilian casualties, and/or law of war violations, vicinity Shah Wali Khot on or about 25-29 November 2010. I have conducted a thorough investigation of the circumstances pertaining to these allegations. My observations, conclusions, and recommendations are provided in the following format: facts, findings and recommendations. This document is classified ~~SECRET//NOFORN~~ due to the source of the HUMINT reporting paraphrased within the body of this document as well as HUMINT reporting attached as exhibits.

2. FACTS. The following are the facts and circumstances surrounding these allegations.

a. ANASF (b)(1)1.4a and Shah Wali Khot District Governor(DG), Ubaidallah Popal, combat advised by USSF (b)(1)1.4a and SEAL Team 4, conducted clearing operations vicinity Padah, Zangitan, and Mian Villages (b)(1)1.4a from 262200D – 292200D November 2010 IOT confirm or deny insurgent habitual areas of operation. This Operation was titled (b)(1)1.4a – 15, targeting (b)(1)1.4a (Mian).

b. (b)(1)1.4a

c. At the conclusion of actions in the village of Mian (29NOV10), USSOF, Shah Wali Khot District Governor and Community Watch (CW) personnel participated in a Shura with

Village Elders; namely (b)(6) the chief Elder. (See Exhibit – A, pg.7) (b)(6) along with other Village Elders, confirmed that all persons killed as a result of ISAF actions were Taliban. The Village Elders also confirmed that no civilians had been wounded or killed as a result of this operation. Furthermore, it was the Village Elders who identified the 1x INS prison in MIAN and requested that Coalition forces destroy it. It is reasonable to asses that had civilians been wounded or killed during this operation Village Elders would have identified them during this Shura either to obtain medical aid or restitution. Additionally, HUMINT reporting indicates that (b)(6) has been detained by Insurgents in Mian for assisting Coalition forces during this operation. (b)(6) has not been seen since 29 November.

d. On or about 07 December 2010, Gov. Wesa, Kandahar Provincial Governor, was visited by an unknown number of unidentified residents of Shah Wali Khot. These individuals alleged that six civilians of Shah Wali Khot were killed when ISAF soldiers tied the civilians back to back and burned/killed them. The individuals from Shah Wali Khot went on to allege that ISAF troops used dogs to attack people. These actions were alleged to have occurred on or about 25-29 November 2010, the same period of time (b)(1)1.4a SEAL Team 4, and ANASF (b)(1)1.4a conducted (b)(1)1.4a (b)(1)1.4a in the vicinity of Mian, Shah Wali Kot District, Kandahar Province (b)(1)1.4a (b)(1)1.4a

e. On 151030D December 2010 I met with Shah Wali Khot District Governor (DG), Ubaidullah Popal, in the Shah Wali Khot District Center. During this meeting I inquired if he had received any credible reports claiming that civilians had been killed during the operations conducted in North-West (NW) Shah Wali Khot (b)(1)1.4a AO) 26-29 December 2010. He stated that all persons killed during this operation were Taliban. (See Exhibit - C) Popal knows this because he states that he has two confidential informants from the NW Shah Wali Khot area, vicinity Mian. Popal declared that these allegations were lies perpetrated by the Taliban in NW Shah Wali Khot (b)(1)1.4a to stop operations in that area. He stated that if there were civilian casualties it is his responsibility to bring this to the attention of Coalition forces; that he represents the people of Shah Wali Khot and it is his job to ensure the people are treated fairly. He went on to state that no one has approached him to make claims that civilians were killed and that it was he who identified the Taliban during this operation. Popal stated that he has lived in Shah Wali Khot his entire life and has been the District Governor of Shah Wali Khot for six years; he knows everyone, especially who the Taliban are.

f. On 151100D December 2010 I participated in a District Shura at the Shah Wali Khot District Center. The following Village Elders were present from the corresponding Villages (b)(6)

(b)(6)

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(b)(6)

(b)(6) (See Exhibit - D) Each of them declared that all persons killed during the USSOF operations conducted 26-29 November 2010 were Taliban and that no innocent civilians were killed or wounded during this operation. They state that they know this because they are from this area and that word of civilian casualties would be wide spread knowledge. They also said that if there were civilian casualties they would bring the names of those who were killed, along with the surviving family members, to ISAF in order to receive restitution. Furthermore, the Shura participants stated that the Taliban in the NW Shah Wali Khot area were intimidating and forcing local nationals to travel to Kandahar to make false claims of civilian deaths as a result of this operation. HUMINT reporting corroborates this declaration. (See Exhibit - E) The Village Elders stated that the Taliban were forcing local civilians to make these allegations in order to, "make ISAF look bad".

g. The area of NW Shah Wali Khot, specifically the towns of Padah, Zangitan, and Mian (b)(1)1.4a are controlled by Taliban forces. (b)(1)1.4a, Shah Wali Khot District Governor and HUMINT and SIGINT reporting support this assessment. Recent HUMINT reporting has also indicated that locals, to include (b)(6), who assisted Coalition forces during (b)(1)1.4a (b)(1)1.4a have been subjected to Taliban intimidation tactics. Subsequently, I assessed travel to these areas infeasible due to the threat to both friendly forces and local nationals. Incidentally, the Presidential Delegation investigating these allegations also avoided traveling to these three villages, instead choosing to meet people at the Shah Wali Khot District Center on 16 December 2010.

3. FINDINGS. The allegations that USSOF were responsible for civilian casualties, and/or law of war violations, during the conduct of (b)(6) at or near Shah Wali Kot, on or about 25-29 November 2010 are unfounded and without merit. My conclusion is based upon the following facts:

a. No member of ANASF (b)(1)1.4a or SEAL Team 4 witnessed or observed civilian casualties during the conduct of (b)(1)1.4a (See Exhibit - F)

b. Shah Wali Khot District Governor reported that all individuals killed during the conduct of (b)(1)1.4a were Taliban insurgents. (See Exhibit - C) He has received confirmation of this through two separate confidential informants. His assessment is also based upon the freedom of communication he enjoys as a result of being a native of Shah Wali Kot his entire life and District Governor of Shah Wali Kot for the past six years. His assessment is corroborated by Coalition and OGA HUMINT reporting (See Exhibit - B)

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c. Village Elders from the area in vicinity of (b)(1)1.4a declared that no civilians were killed or injured during the operations conducted 26-29 November 2010 in NW Shah Wali Khot. These Village Elders each signed and provided their thumb print to attest to this declaration. (See Exhibit - D) They also stated that had Coalition forces killed civilians they would have brought the matter to the District Governor to bring to ISAF and the Provincial Government.

d. Due to the willingness of Village Elders in Mian to meet with Coalition forces, and identify and request destruction of Taliban infrastructure in their area, it is reasonable to expect that had civilians been killed during this operation, the victim's identities would have been communicated during the Shura conducted in Mian. It is also reasonable to expect that had civilians been killed during this operation the Village Elders would have substantiated this claim by providing the victim's identities to the District Governor, Coalition Forces or Provincial Government officials. No civilian casualty victim identities have been provided or discovered to date.

e. I have not detected any indication, whatsoever, that civilians were either wounded or killed during the conduct of (b)(1)1.4a During each of my interactions with both local nationals and Coalition forces I inquired if at any time a civilian's identity had been provided as being a victim of Coalition fires. Each time the response was in the negative.

4. RECOMMENDATIONS. The following recommendations are based on the findings above.

(b)(1)1.4a, (b)(5)

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(b)(1)1.4a, (b)(5)

(b)(3), (b)(6)

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